

No. 62, A.]

[Published April 7, 1891.

CHAPTER 99.

AN ACT conferring civil, criminal and appellate jurisdiction upon the county court of Waukesha county, Wisconsin.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

County court shall have exclusive appellate jurisdiction, when.

SECTION 1. The county court of the county of Waukesha, in addition to the powers and jurisdiction conferred by law upon the county courts, shall have exclusive appellate jurisdiction, in all cases of appeal from justices' courts in civil actions, and in all cases commenced in justices' courts therein, where an answer shall be put in showing that the title of lands will come in question, all of which cases shall be certified, and all official returns shall be made to said county court in the manner prescribed by law; and such court shall exercise power and jurisdiction, in all civil actions and proceedings in law and equity, except as to actions and proceedings under chapter 151, revised statutes, concurrent with and equal to the jurisdiction of the circuit court of said county, when the value or amount in controversy, or the amount of money claimed or sought to be recovered, after deducting all payments and set-offs, shall not exceed ten thousand dollars; but said court shall have jurisdiction of all actions in said county for the foreclosure of mortgages, in which the amount claimed does not exceed the sum above specified, although the property to be effected by the judgment exceeds the amount in value; and of all actions for divorce, or for affirmance or annulment of marriage contracts. Said county court shall have jurisdiction of all actions prosecuted therein, until it shall appear affirmatively, in the progress of the action, that the amount claimed by the plaintiff after the deduction aforesaid, exceeds the amount to which the jurisdiction of such court is limited, in which case the action shall be dismissed.

SECTION 2. Concurrent jurisdiction, power and authority with the circuit court of Waukesha county, Wisconsin, is hereby conferred and imposed upon the county court of Waukesha county, Wisconsin, of all criminal offenses committed in said county of Waukesha or of which the circuit court of said county has jurisdiction other than felonies, or criminal offenses which may be punished by imprisonment in the state prison, and of any person accused thereof, and to hear, try and determine, pronounce judgment and sentence and take and have all necessary proceedings concerning or relating thereto as provided by law. The necessary jurisdiction, power and authority in the premises is hereby conferred and imposed upon the said county court.

Concurrent jurisdiction with circuit court in cases, when.

SECTION 3. In any criminal case or proceedings for any such criminal offense, any justice of the peace, officer or other examining magistrate having jurisdiction, may bail, recognize, bind over or commit for trial the accused, either to the circuit or the county court of said county of Waukesha. When so bailed, recognized or bound over or committed for trial or lawful proceedings in or to said circuit court, and when the accused is not out on bail, and before or after an information has been filed, the presiding judge of said circuit court, or such circuit court of said county, may certify the accused, and all the proceedings relating to any person accused of any such offense, to the county court of said county for trial, disposal of, determination and adjudication in said county court, and thereupon the same and all the papers and files therein, shall be in the said county court, without any further order or certificate, and be a case and proceeding in such county court, entitled as such; and the said county court shall have complete and full jurisdiction thereof, and of all the necessary proceedings relating thereto, and to be had therein. If the accused is bailed after such certification the bond or recognizance shall be for his or her appearance at such county court. When, under the provisions of this act, a person is so bailed, bound over, recognized or committed for trial or proceedings to and in said county court, it may be at and for the next general or special term thereof. The information shall be filed in

Bail bond may require appearance at either circuit or county court.

such county court. If any person accused of a criminal offense is so bailed, bound over, recognized or committed for trial to the county court for a criminal offense of which said court has not jurisdiction, or if the district attorney shall file an information for an offense of which said county court has not jurisdiction, then, or in either case, such proceedings shall not abate, and the said court shall not lose jurisdiction of such person and proceedings, but such county court, or the presiding judge thereof, shall certify the same to the said circuit court of said county, and they shall thereupon become a case and proceeding in such circuit court, which shall have full jurisdiction thereof.

Trials may be had at general or special term of county court.

SECTION 4. Trials of any persons accused of any such criminal offenses, and all the necessary proceedings therein or relating thereto, may be had in said county court, either at a special or general term thereof. A jury shall be selected and a venire issued therefor as provided herein for the selection of a jury in civil actions in said county court, and from the jurors selected for said court to try civil actions, the parties to be entitled to the same number of challenges as provided by law in criminal cases in circuit court. If any of the jurors in any venire fail to appear, or are excused, or if there shall be any legal objection to any thereof, the court may direct the sheriff, his under sheriff, or any of his deputies, to summon from the county or the bystanders, a sufficient number to supply the deficiency.

Trial by jury.

SECTION 5. When triable by a jury the accused may waive a trial by a jury, when permissible by law, and thereupon be tried by the court; or the court, at its discretion, may order a trial by jury in case of any such waiver.

Selection of jurors.

SECTION 6. Nothing herein to be construed as to change the manner herein provided for the selection of jurors for said county court, and the jurors so selected as provided to be the jurors of said county court at and for both the general and special terms thereof, and to continue to be jurors of said court until the next regular term thereof.

Justices' judgments to be appealed to county court.

SECTION 7. All appeals from judgments rendered by justices of the peace in criminal cases in the county of Waukesha, shall be taken to the

county court, instead of to the circuit court. Jurors in such criminal cases in the county court shall be drawn, empanelled and sworn in the same manner, as they are in civil actions in said county court.

SECTION 8. The general provisions of law, which may at any time be in force, relating to the circuit courts, and to civil and criminal actions and proceedings therein, shall relate also to the said county court unless inapplicable, and except as herein otherwise provided; and the rules of practice prescribed by the justices of the supreme court for circuit courts, shall be in force in said county court. Court commissioners in said county shall have the same powers, and be subject to the same duties, in respect to the actions and proceedings in such county court as in the circuit courts.

General provisions of law applicable to civil and criminal proceedings in circuit court shall apply to county court.

SECTION 9. When the place of trial for any criminal offense, civil action or proceeding, shall be changed on account of the prejudice or disqualification of the judge of said county court, or for any other lawful cause, it shall be changed to the circuit court of Waukesha county, Wisconsin. When an order is made so changing the place of trial of any such action or proceedings to said circuit court, such order in itself shall be a change and transfer thereof, and of all the papers, records and files thereof, and therein, to said circuit court, without any certificate or further act whatever.

Causes removed shall be removed from county to circuit court.

SECTION 10. The judge of said court shall have the same power to hold special and adjourned terms of said court as is now or may hereafter be conferred by general law, upon the circuit courts of this state; and the said county court shall have the same power to issue special venires and to summon talesmen to serve upon juries therein, as is now or hereafter may be conferred upon the circuit courts of this state.

Judge of county courts shall have power to hold general and special terms, in like manner as circuit judge.

SECTION 11. The county judge may, at any term thereof when the court can not be conveniently held in the court house, on account of the sitting of the circuit court, or for any other cause, adjourn the said county court to his office or to some other suitable place, to be designated by him, which the sheriff shall provide for that purpose, and such term or the remainder thereof shall be

County judge may hold court out of court house, when.

held at such office or place unless the judge shall again adjourn the same to the court house.

Clerk of circuit court shall be clerk of county court.

SECTION 12. The clerk of the circuit court of said county shall be the clerk of the said county court, and shall have the care and custody of all the books and papers belonging to the said county court, and he and his deputy shall perform all the duties of the clerk of said court, so far as concerns its civil and criminal jurisdiction, in the same manner as he is required to perform the duties of the clerk of the circuit court, as far as applicable, and may demand and receive the same fees and compensation therefor.

Seal.

SECTION 13. The seal of said county court provided under provisions of section 2448, revised statutes, shall also be the seal of said county court as a court of civil and criminal jurisdiction.

Appeals may be made to supreme court.

SECTION 14. No appeal to the circuit court shall be made or allowed, of any cause tried or determined by said county court, except in probate cases; but the orders and judgments made or rendered in such court may be removed to, and reviewed by the supreme court in the same manner that orders and judgments of circuit courts may be.

Jurors, how selected.

SECTION 15. The jurors for such county court, in the county of Waukesha, shall be selected as follows: At least two weeks before each term of the county court at which cases may be tried by jury, the county judge and clerk of the circuit court shall select from the residents of the county, qualified to act as jurors in the circuit court, fifty persons to serve as jurors in said court for such term. In case the said clerk has an action or an interest in any action for trial in said county court, then the judge of such court shall call to his assistance either the sheriff or the register of deeds of said county, who with said county judge shall select the jurors; but if such jury shall not be selected at such time, it may be selected at any time before the commencement of such term. They shall make a list of names of the persons so selected, sign the same and forthwith file such list in the office of the clerk of the court. Such court shall not be irregular, or illegal, if persons are selected in good faith who are not qualified, but the names of such persons shall be stricken therefrom. The clerk shall put the names

of all such persons in a box, in the manner prescribed for jurors in circuit courts, and when a jury shall be demanded, the same shall be drawn from the names in such box.

SECTION 16. If a jury shall not be demanded by either party when an action shall be called for trial or if the trial of any action shall be set down for a particular day, then at the time the same is so set down for trial, a jury trial therein shall be deemed to have been waived and such action shall be tried by the court, unless the court shall otherwise direct. Jury waived,
when.

SECTION 17. If any party to an action, triable by a jury, in such county court shall at the time such action is called, or so set down for trial, demand in open court a trial by jury therein, the clerk shall draw from the names in such box a jury for the trial of such action, and such jury shall be drawn, and peremptory challenges made, as in case of drawing a jury in the circuit court, except that the persons so drawn need not be present when drawn. When a jury shall have been so drawn, or otherwise agreed upon by the parties, a venire therefor shall be issued by the court to the sheriff or any of his deputies, who shall duly execute the same by forthwith summoning the persons therein named to serve as such jury, and the court may fix the time in such venire when said jurors shall be required to appear in court. If any of the jurors named in such venire shall fail to appear, or if there shall be any legal objection to any that shall appear, or if any shall be excused by the court, the court shall direct the sheriff or one of his deputies, or some other disinterested person, to summon from the county, or from bystanders, a sufficient number of talesmen to supply the deficiency. If a jury be required to make an assessment of damages in any case, the same shall be drawn from the names in such box, or the court may direct the same to be made by a jury summoned in any other case, or may direct the clerk to issue a special venire to summon a special jury for that purpose. Unless objection be made, an assessment of damages may be made by the court, or judge thereof, without a jury. If for any cause, in selecting a jury the panel shall become exhaust-

Jury for trial,
how drawn.

ed, a jury may be obtained as provided in similar cases in circuit court.

Fees of jurors. SECTION 18. All jurors summoned and attending such county court, shall receive two dollars per day, and mileage, to be paid out of the county treasury upon like certificates as jurors in circuit courts are paid.

Sheriff shall attend county court sessions. SECTION 19. The sheriff of said county, in person or by one or more of his deputies, as shall be required by the judge thereof, shall attend the county court of said county when actually in session for the transaction of business other than probate business.

Judge may fix day certain for trial of any case. SECTION 20. The judge of the county court of Waukesha county, shall not be required to call the calendar for trial in its order at any regular term thereof, sitting as a court of civil and criminal jurisdiction, but may in the discretion of any such judge set down the cases on such calendar for trial at times certain, upon the stipulation of the parties, or on the application of either party entitled to move the cause, upon notice of such intended application to the opposite party, and may by rules regulate and prescribe the practice in relation to setting down cases for trial, and striking juries, and issuing venire in cases wherein juries are required. Said county court shall be deemed to be open for the transaction of business from the commencement of any regular term thereof until any such term is adjourned without day, or until the next regular term thereof, and no adjournment from day to day shall be necessary to the validity of any proceedings in said court; but no per diem shall be allowed to any officer of said court excepting for days on which said court is actually in session, transacting business.

Court reporter. SECTION 21. Said county judge may also appoint a phonographic reporter, skilled in the art of short-hand reporting, for said court, and may remove him at pleasure, and appoint another in his place. Every person so appointed shall be deemed an officer of said court, and shall, before entering on the duties of his office take and subscribe the constitutional oath, and file the same, duly certified, with the clerk of said court. The reporter shall attend said court whenever requested by the judge, and perform such duties as the

judge may require. He shall be allowed such compensation as shall be fixed by the judge, not exceeding five dollars (\$5.00) per day for such day's actual attendance, or two dollars and fifty cents (\$2.50) for each half day's attendance on the court, which shall be certified, audited and paid in the same manner provided by law for payment of the sheriff for attending the circuit court. Section 2439, of the revised statutes, shall apply to such reporter and said court, and section 4141, of the revised statutes, shall apply to transcribed copies of the testimony and proceedings taken by the reporter in said county court.

Compensation
of reporter.

SECTION 22. Exclusive jurisdiction is hereby conferred upon the county court, of Waukesha county, Wisconsin, of all persons arrested as tramps, vagrants and for drunkenness in the town of Waukesha, and the south half of the town of Pewaukee, in said county, under chapter 65, revised statutes of 1878, chapter 470, of the laws of 1887 and section 1561, revised statutes of 1878, and acts amendatory thereof. Said county courts shall have power to commit or bail over to the next regular term of the circuit court of said county, such persons as, on examination, are found to be indictable or subject to information, and such witnesses as may be necessary. In case the judge of said court desires to be absent from said court, or in case of his sickness, press of business, at a regular or special term, or of his inability for any cause, to attend, he may designate and appoint, by order entered in the minutes of said court, one of the justices of the peace of said county to temporarily discharge the duties of the judge of said court under this section, whose acts shall be of the same force as if performed by the judge, and such justice shall receive for his services five dollars (\$5.00) per day, and two dollars and fifty cents (\$2.50) for each half day, to be paid by the said county. The county judge shall not voluntarily absent himself from the duties under this section for more than thirty days in any one year, except from sickness.

Exclusive
jurisdiction of
tramps, va-
grants, etc.

SECTION 23. The terms of the said county court of Waukesha county, Wisconsin, for the transaction of all business under this act shall be as follows: On the first Wednesday of March and the first Wednesday of September, and special terms

Terms of court,
when.

shall be held on the first Wednesday of each month, except the months of March and September; but no issues of facts for jury shall be heard or tried at such special terms.

County judge's salary.

SECTION 24. The county judge of said Waukesha county, Wisconsin, shall receive an annual salary of one thousand dollars (\$1,000) for performing the duties required by this act, payable quarterly.

SECTION 25. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1891.

No. 52, S.]

[Published April 7, 1891.

CHAPTER 100.

AN ACT to legalize the revised ordinances of the city of Black River Falls.

(See Vol. 2.)

No. 93, S.]

[Published April 3, 1891.

CHAPTER 101.

AN ACT to correct an error in the levy and collection of state tax of the county of Jefferson for the year 1889.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Error in collection of state tax.

SECTION 1. Whereas, the state board of supervision did, on the 7th day of October, 1889, certify to the secretary of state, in accordance with section 2, chapter 229, of the laws of 1881, that the county of Jefferson was entitled to a credit on its next state tax in the amount of five hundred and fifty-five dollars and seventy-eight cents, erroneously paid for the care and maintenance of one